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CIA FOR WINPAC  
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SECDEF FOR OSD(P)/STRATCAP  
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NSC FOR LOOK  
DIA FOR LEA

E.O. 12958: DECL: 09/21/2019  
TAGS: [KACT](#) [MARR](#) [PARM](#) [PREL](#) [RS](#) [US](#) [START](#)  
SUBJECT: START FOLLOW-ON NEGOTIATIONS, GENEVA (SFO-GVA-V):  
(U) FIFTH TREATY TEXT AND DEFINITIONS WORKING GROUP  
MEETING, SEPTEMBER 29, 2009, P.M. SESSION

Classified By: A/S Rose E. Gottemoeller, United States  
START Negotiator. Reasons: 1.4(b) and (d).

¶1. (U) This is SFO-GVA-V-030.

¶2. (U) Meeting Date: September 29, 2009  
Time: 3:00 p.m. - 6:00 p.m.  
Place: R.F. Mission, Geneva

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SUMMARY  
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¶3. (S) The U.S. and Russian Treaty Text and Definitions Working Groups (TTDWG) met at the Russian Mission for the fifth meeting. The group developed agreed text in the "final provisions" of the Treaty Articles, including language addressing issues such as treaty ratification, duration, extension options, withdrawal rights, amendment process, and registration under the United Nations Charter.

¶4. (S) Some decisions on language pertaining to treaty extension options and withdrawal rights were deferred to a later date. Each side recognized that agreement on the Russian-proposed language explicitly permitting withdrawal in event of a buildup in the capabilities of missile defense systems could not be reached at this time. The sides agreed that this matter would require resolution at a more senior level.

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START FOLLOW-ON RATIFICATION

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¶5. (S) Each side agreed to refer to the Moscow Treaty by its formal name in both the Preamble and the final provisions of the new treaty, rather than using the "hereinafter referred to as" phrase in the Preamble. The Russian delegation made clear its discomfort with the U.S. term "Moscow Treaty" while the U.S. delegation had the same feeling about the Russian abbreviation "SORT." The agreed text in the Preamble was updated to be consistent with this decision.

¶6. (S) The two sides agreed on the following language based on the U.S.-labeled Article XV regarding the duration of the treaty.

Begin text:

This Treaty shall remain in force for 10 years unless superseded earlier by a subsequent agreement on the reduction and limitation of strategic offensive arms.

End text.

¶7. (S) (Begin comment: During this discussion, and throughout this particular working group meeting, the Russian side accepted U.S. reasoning that strongly favored precedent. The sides recognized the concepts and wording employed in the original START Treaty were preferable. End comment.)

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PROVISIONS GOVERNING EXTENSION  
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¶8. (S) Koshelev objected to the U.S.-proposed language regarding extension of the new treaty originally requiring a meeting between the two sides 1 year prior to the treaty's expiration, at which time the Parties would consider extension of the treaty. Koshelev said the decision would be reached by its country without holding an actual meeting. The Russian side also disagreed with the time requirement in the U.S.-proposed text.

¶9. (S) The sides briefly discussed the appropriate level for the decision regarding extension (e.g., Bilateral Consultative Commission (BCC), cabinet-level official or head of state), and agreed that it was best to leave it unspecified to retain maximum flexibility.

¶10. (S) During the meeting, the U.S. proposed the following compromise language to capture each side's position:

Begin text:

No later than 1 year before the expiration of the Treaty, the Parties shall jointly consider extending this Treaty for a period of no more than 5 years unless it is superseded before the expiration of that period by a subsequent agreement on the reduction and limitation of strategic arms.

End text.

¶11. (S) The Russian side pledged to review and fully evaluate the U.S. proposal prior to the next TTDWG meeting.

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ROLE OF BCC IN AUTHORIZING LOWER-  
LEVEL CHANGES TO THE TREATY  
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¶12. (S) The working group began a discussion regarding the amendment process, covered in the U.S.-numbered Treaty Article XVI. The Russian side had proposed language permitting involvement of the BCC in the execution of minor changes to subordinate treaty documents that "do not affect substantive rights and obligations of the Parties under the Treaty."

¶13. (S) Mr. Dean asked the Russian side to more fully explain its rationale for this proposal. In general, the United States wanted to understand the Russian argument in favor of modifying the new treaty via the BCC rather than by using the normal amendment process.

¶14. (S) Ms. Kotkova responded that the proposal was consistent with the manner in which the Joint Compliance and Inspection Commission (JCIC) had conducted itself in recent years, so the new wording would simply codify existing practice. Each side noted that similar wording to the Russian proposal already existed in the original START Treaty, but was found at the end of each Protocol. Kotkova further explained that the Russian-proposed Annex was not structured to include final provisions, so the language covering the role of the BCC in treaty changes was moved up into the actual Articles themselves. Ultimately, the Russian

side recognized that the location of this provision depended on the final structure of the START Follow-on Treaty, and stated that they did not prefer one level of document over another.

¶15. (S) Ambassador Ries pointed out that this topic was more suited in a discussion on the overall role of the BCC, and proposed that it be revisited when the working group tabled the Protocol governing the BCC. The Russian side concurred.

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WITHDRAWAL PROVISIONS  
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¶16. (S) Ries began discussion on the provision governing withdrawal by saying that the U.S. approach drew heavily from established precedent in other arms control agreements. In addition, the United States believed it was not necessary to specify circumstances under which withdrawal might be appropriate. This could artificially constrain the Parties in the future.

¶17. (S) Koshelev replied that he was familiar with the U.S. position. He stated that a complete agreement on this provision of the treaty was impossible at this time due to the Russian position on missile defense. The Russian-proposed text specifies that "quantitative and qualitative buildup in the capabilities of strategic missile defense systems" would be grounds for withdrawal from the treaty. The U.S. side agreed that this issue needed to be resolved at a more senior level.

¶18. (S) The Russian side then presented its rationale for using the word "terminate" to describe the withdrawal of one Party from the treaty. Kotkova stated that the word "withdrawal" was typical in multilateral agreements, but did not make sense for a bilateral agreement since the act of withdrawal by one Party would immediately nullify the treaty. She did acknowledge that the original START Treaty uses the word "withdrawal."

¶19. (S) Dean responded that "withdrawal" was a well-established term for this provision, that it set a more appropriate tone in English than the Russian-proposed "terminate," and that, logically speaking, treaty termination was a result of one Party's withdrawal. For all these reasons, the United States believed "withdrawal" was the appropriate word.

¶20. (S) The Russian side acknowledged the U.S. position, but suggested a deferral of the discussion to allow each side to think creatively on the matter. The U.S. side concurred.

¶21. (S) Mr. Luchaninov then asked the U.S. side to clarify its approach by describing the "extraordinary events" that might justify withdrawal from the treaty. Dean repeated the U.S. position that this was well-established and universally accepted language from existing international agreements.

¶22. (S) Luchaninov followed up by asking the U.S. side to explain the words "related to the subject matter of this Treaty," which the United States had used to qualify the "extraordinary events" justifying withdrawal. Dean replied

that the events would have to be related to reductions in strategic offensive arms. Luchaninov asked Dean to name examples of such events, and Dean answered that it would not be productive to speculate. He also elaborated on Ries' earlier comment, stating that to include such an example in the treaty text could have an unintended consequence. Specifically, it could prompt future discussion about whether a given basis for withdrawal rose to the level of the example specified in the treaty. This could constrain the Parties' ability to exercise discretion under this clause.

¶23. (S) Ries then engaged the Russian side on the timeframe for withdrawal. Ries defended the U.S. case for 6 months, stating that the longer advance notice signaled the gravity of such a decision, and reflected the fact that the START Follow-on Treaty was a complex document with complicated procedures. Koshelev appeared sympathetic to the U.S. position, and admitted that he did not know why the Russian Ministry of Foreign Affairs had changed the Russian-proposed text to specify 3 months. He pledged to research the matter and readdress the issue during the next meeting.

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BCC ACTIVITIES OTHER THAN MEETINGS  
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¶24. (S) Koshelev began a discussion of the Treaty Article XIII governing the role of the BCC by saying the sides had two differences, neither of which was substantive. Kotkova elaborated by stating that the Russian-proposed text specified that the BCC was subject to procedures described in subordinate treaty documents. This was consistent with similar phrases in the treaty regarding inspections, notifications and the database. The Russian side pointed out that the verbiage here was again unable to be completely resolved until the final structure of the new treaty was established.

¶25. (S) Ries acknowledged the Russian position and agreed that approval of final text in this area would have to wait until the sides finalized treaty structure. She added that the U.S. side felt it important that the Parties "meet within the framework of" the BCC rather than "hold sessions." She explained that this broader construction better captured the reality of JCIC activities during recent years, which included jointly observed demonstrations and exhibitions.

¶26. (S) The two sides then engaged in a lively discussion of recent JCIC activities, with Mr. Dunn and Mr. Taylor providing numerous examples of recent JCIC demonstrations that were conducted by agreement of the Parties in the JCIC, but outside the context of a sit-down session in Geneva. The Russian side recognized the merit of the U.S. position but asked to consider the matter further before returning to discuss it.

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ROLE OF BCC WITH RESPECT TO  
NEW STRATEGIC OFFENSIVE ARMS  
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¶27. (S) The meeting concluded with a short discussion on the role of the BCC with respect to new strategic offensive arms.

Ries reviewed the U.S.-proposed language on this subject, and stated it provided a clear procedure for the BCC to follow in this case.

¶28. (S) Koshelev pointed out that this text was again problematic due to the unresolved treaty structure, since it

referred to the U.S. Notification Protocol rather than an Annex. He believed that a parallel notification (regarding newly developed strategic offensive arms) did not exist in the Russian-proposed Articles or Annex. Koshelev further opined that discussion of this matter would be more appropriate in the meetings of the Elimination-Notification Working Group. Ries agreed.

¶29. (U) Documents exchanged: None.

¶30. (S) Participants:

U.S.

Amb Ries  
LCDR Brons  
Mr. Connell  
Mr. Dean  
Mr. Dunn  
Col Hartford  
Mr. Taylor  
Mrs. Zdravecky  
Ms. Gross (Int)

RUSSIA

Mr. Koshelev  
Col. Kamenskiy  
Mr. Kostuchenko  
Ms. Kotkova  
Adm (Ret) Kuznetsov  
Mr. Luchaninov  
Mr. Malyugin  
Ms. Evarovskaya (Int)

¶31. (U) Gottemoeller sends.  
RICHTER